

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANDREW PERRONG,

Plaintiff,

- against -

ALPHA GAS AND ELECTRIC, LLC and JOHN DOE
CORPORATION,

Defendants.

1:21-cv-5518-JMF

**DEFENDANT ALPHA GAS
AND ELECTRIC, LLC'S
ANSWER AND
AFFIRMATIVE DEFENSES**

Defendant, Alpha Gas and Electric, LLC (“Alpha”) responds to the corresponding numbered paragraphs of Plaintiff’s Complaint filed on June 23, 2021, and states as follows:

1. This paragraph does not contain any allegations for which a response is required.
2. This paragraph consists of Plaintiff’s characterization of the action and legal conclusions, to which no response is required.
3. This paragraph consists of Plaintiff’s characterization of the action and legal conclusions, to which no response is required.
4. This paragraph does not contain any allegations for which a response is required.
5. Alpha denies knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.
6. Admitted.
7. Alpha denies knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.
8. This paragraph does not contain any allegations for which a response is required.
9. This paragraph does not contain any allegations for which a response is required.
10. This paragraph does not contain any allegations for which a response is required.

11. This paragraph does not contain any allegations for which a response is required.

12. This paragraph does not contain any allegations for which a response is required.

13. This paragraph does not contain any allegations for which a response is required.

14. This paragraph does not contain any allegations for which a response is required.

15. This paragraph does not contain any allegations for which a response is required.

16. This paragraph does not contain any allegations for which a response is required.

17. Alpha admits that it is a supplier of electric service doing business, in among other states, the Commonwealth of Pennsylvania.

18. Alpha admits that it has, over the course of its existence, generated sales through telemarketing.

19. Alpha admits that it has, over the course of its existence, used the services of third party telemarketing providers.

20. This paragraph does not contain any allegations for which a response is required.

21. Alpha denies knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

22. Alpha denies knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

23. Alpha denies knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

24. Alpha denies knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

25. Alpha denies knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

26. This paragraph does not contain any allegations for which a response is required.

27. Alpha denies knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

28. Alpha denies knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

29. Alpha denies knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

30. Alpha denies knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

31. Alpha denies knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

32. Alpha denies knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

33. Alpha denies knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

34. Alpha denies knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

35. Alpha denies knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

36. This paragraph does not contain any allegations for which a response is required.

37. This paragraph does not contain any allegations for which a response is required.

38. This paragraph does not contain any allegations for which a response is required.

39. This paragraph does not contain any allegations for which a response is required.

40. This paragraph does not contain any allegations for which a response is required.

41. This paragraph does not contain any allegations for which a response is required.

42. Alpha denies knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

43. Alpha denies knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

44. Alpha denies knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

45. Alpha denies knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

46. Alpha denies knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

47. Alpha denies knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

48. This paragraph does not contain any allegations for which a response is required.

49. This paragraph does not contain any allegations for which a response is required.

50. This paragraph does not contain any allegations for which a response is required.

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- 57. This paragraph does not contain any allegations for which a response is required.
- 58. This paragraph does not contain any allegations for which a response is required.
- 59. This paragraph does not contain any allegations for which a response is required.
- 60. This paragraph does not contain any allegations for which a response is required.
- 61. This paragraph does not contain any allegations for which a response is required.
- 62. This paragraph does not contain any allegations for which a response is required.
- 63. This paragraph does not contain any allegations for which a response is required.
- 64. This paragraph does not contain any allegations for which a response is required.
- 65. This paragraph does not contain any allegations for which a response is required.

AFFIRMATIVE DEFENSES

Alpha asserts the following defenses, including but not limited to affirmative defenses, pursuant to FRCP 8(c) and further reserves all rights to assert additional or amended defenses against Plaintiff or the alleged putative class, which are unknown at this time.

A. The Telephone Consumer Protection Act of 1991, as applied by Plaintiff, is unconstitutional and violates, among other things, the First Amendment of the United States Constitution.

B. Plaintiff's claims and the claims of putative class members are barred, in whole or in part, because of intervening and superseding events, or by the acts or omissions of third parties for which Alpha bears no responsibility.

C. Plaintiff's claims and the claims of putative class members are barred, in whole or in part, because Alpha complied with the requirements of the Telephone Consumer Protection Act of 1991 and related statutes and regulations.

D. Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action upon which relief can be granted.

E. Plaintiff's claims and the claims of putative class members are barred, in whole or in part, by the doctrines of res judicata, estoppel and equitable estoppel.

Dated: New York, New York
July 27, 2021

FRIED, FRANK, HARRIS, SHRIVER
& JACOBSON LLP

By: /s/ Motty Shulman
Motty Shulman

One New York Plaza
New York, New York 10004-1980
(212) 859-8000
motty.shulman@friedfrank.com

Attorneys for Defendant
Alpha Gas and Electric, LLC